

**IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

RBH ENERGY, LLC,	§	Case No.: _____
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
HUMANSIZE CORP.,	§	JURY TRIAL DEMANDED
	§	
Defendant.	§	

**ORIGINAL COMPLAINT FOR COPYRIGHT INFRINGEMENT**

Plaintiff RBH Energy, LLC (“RBH”), by counsel, alleges as follows for its Original Complaint for Copyright Infringement against Defendant Humansize Corporation (“Humansize”), and requests relief from this Court based on the following:

**THE PARTIES**

1. Plaintiff RBH is a Texas limited liability company with its principal place of business located at 112 N. Bailey Ave. #B, Fort Worth, TX 76107.

2. Humansize is a registered Texas foreign for-profit corporation. It can be served through its registered agent for service of process, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, TX 75201-3136

**JURISDICTION AND VENUE**

3. This is a suit for copyright infringement under the United States Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

4. This Court has jurisdiction over Plaintiff’s claims for copyright infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2), 1391(d), and 1400(a).

**BACKGROUND**

6. RBH realleges paragraphs 1 through 5 as if fully set forth herein.

7. RBH is the owner of U.S. Copyright No. VAu 1-010-258 (“Copyright”) titled Brian Harness Photography Collection 2009 Vol. III. A true and correct copy of the copyright is attached hereto as Exhibit A.

8. The named artist of the Copyright is Brian Harness (“Harness”). *See id.*

9. On October 23, 2015, Harness assigned the Copyright to RBH. A true and correct copy of the assignment is attached hereto as Exhibit B.

10. Harness, a professional photographer, is the sole member of RBH.

11. On December 3, 2009, Harness entered into a license (“Humanscale License”) with Humanscale to purchase limited rights to use a photograph Harness had taken for another client. A true and correct copy of the Humanscale License is attached hereto as Exhibit C.

12. The Humanscale License was limited in scope at gave Humanscale the rights to use the licensed photograph only as follows, “License: Use in Humanscale print brochures and PowerPoint presentations...” *See* Exhibit C at 1.

13. The photo subject to the Humanscale License was registered as a collection of photographs submitted as part of U.S. Copyright No. VAu 1-010-258.

14. The photo that was licensed to Humanscale was registered with U.S. Copyright Office on January 1, 2010. *See* Exhibit A.

15. The photo that was subject to the Humanscale License, and included as part of the Copyright, is the following photo:



16. Defendant Humanscale, without permission from Harness or RBH, misappropriated this photograph and included the copyrighted photograph on its website: <https://www.humanscale.com/about/mediacenter.cfm>. A true and correct copy of a screenshot of this web page as captured by Google is attached hereto as Exhibit D.

Google Search

7/11/14, 7:01 PM

JPG x

Web Images News Shopping Maps More Search tools

About 23 results (0.44 seconds)





Image size:  
845 x 568  
No other sizes of this image found.

Pages that include matching images

Media Center | Humanscale

<https://www.humanscale.com/about/mediacenter.cfm>  
450 x 274 - Check here for the latest news about Humanscale's ergonomic and design-related events, awards, and press kits.

17. The photograph, noted above, remained on Humanscale's website until sometime after July 23, 2013.

18. Because Humanscale had no permission to use the protected photograph on its website, Humanscale is liable for direct copyright infringement.

**COUNT 1 – COPYRIGHT INFRINGEMENT**

19. RBH realleges paragraphs 1 through 18 as if set fully herein.

20. RBH alleges Humanscale is liable for direct copyright infringement pursuant to 17 U.S.C. 501(a).

21. RBH has been damaged by Humanscale's actions.

**DEMAND FOR JURY TRIAL**

Pursuant to FED. R. CIV. P. 38 and the 7th amendment of the U.S. Constitution, a trial by jury is hereby demanded.

**DEMAND FOR RELIEF**

WHEREFORE, Plaintiff RBH Energy, LLC demands that:

- a. Defendant Humanscale Corp. be enjoined from reproducing, administering, displaying, or publishing RBH's copyrighted works;
- b. Defendant Humanscale Corp. be ordered to pay statutory damages pursuant to 17 U.S.C. § 504;
- c. Defendant Humanscale Corp. pay RBH's reasonable attorney's fees and costs of this action, pursuant to 17 U.S.C. § 505;
- d. Defendant Humanscale Corp. pay pre-judgment and post-judgment interest on any damages awarded; and
- e. The Court award Plaintiff all other relief it deems justified.

Further, Plaintiff RBH Energy, LLC also reserves all of its rights to elect alternative remedies, including election of actual damages, as permitted by law.

Dated: July 23, 2016

Respectfully submitted,



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**ATTORNEYS FOR PLAINTIFF  
RBH ENERGY, LLC**